



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Terstappen et al.

Serial No. 10/068,712

Filed: 02/06/2002

For: APPARATUS AND METHODS  
FOR MAGNETIC SEPARATION

Examiner: Pensee T. Do

Group Art Unit: 1641

Response to 03/18/05 O.A.

**Remarks**

**Claim Rejection- 35 USC §112**

Claims 2, 3 AND 9, 11 were rejected under 35 USC §112.

Claims 2 and 11 recite variables sizes in the test reaction and collection vessel. A primary element of the device design is to have accurate control of the plunger position relative to the outer chamber without scraping the chamber wall by the plunger (page 14, para 0133). Since the idea is to collect the particles after they have been trapped along the inner surface, any subsequent movement/turbulence will cause the particles to dislodge. This is especially important when rare cells are collected. Consequently, varying the annular space by either changing the container size or changing the plunger size/movement will displace the particles from the inner surface and allow collection (page 14; para 0134).

Accordingly, claims 2 and 11 have been canceled and new claims 26 and 27 are added to reflect this difference.

Claims 3 and 9 are supported in the specs with a plunger having the same configuration, but with an outside dimensions less than the inside dimensions of the interior surface only (Figure 3). Accordingly, claims 3 and 9 have been amended to reflect this support.